

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF

**CHEMICAL LIME COMPANY
OF MISSOURI, INC.**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT,
LA. R.S. 30:2001, ET SEQ**

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* **Enforcement Tracking No.**
* **AE-CN-01-0411**

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* **Docket No. 2003-0051-EQ**

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SETTLEMENT AGREEMENT

The following Settlement is hereby agreed to between Chemical Lime Company of Missouri, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “Department”) under authority granted by the Louisiana Environmental Quality Act, LSA-R.S. 30:2001, *et seq.*, (“the Act”).

I.

The Respondent is a corporation who owns and/or operates a lime distribution facility located at 1785 South Westport Drive in Port Allen, West Baton Rouge Parish, Louisiana (“ the Facility”). The Facility operates under Air Permit Number 3120-00041-02 issued November 29, 2000.

II.

On August 29, 2002, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-01-0411, to the Respondent, which was based upon the following findings of fact:

On or about September 7, 2001, an inspection of Chemical Lime Company Of Missouri, Inc.’s Port Allen Terminal was performed to determine the degree of

compliance with the Louisiana Environmental Quality Act (the Act) and Air Quality Regulations in response to a citizen complaint regarding dust emissions leaving the facility.

While the Department's investigation is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of LAC 33:III.1305.A and Section 2057(A)(2) of the Act.
- B. The Respondent failed to keep records of visual checks and maintenance inspections of the dust filters on site and available for inspection by the Office of Environmental Compliance, Surveillance Division as required by the Specific Condition of Air Permit Number 3120-00041-02. This is a violation of the Specific Condition of Air Permit Number 3120-00041-02, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about October 5, 2001, an inspection of Chemical Lime Company Of Missouri, Inc.'s Port Allen Terminal was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and Air Quality Regulations in response to a citizen complaint regarding dust emissions leaving the facility.

While the Department's investigation is not yet complete, the following violation was noted during the course of the inspection:

The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. This is a violation of LAC 33:III.1305.A and Section 2057(A)(2) of the Act.

III.

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV.

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V.

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, the amount of ONE THOUSAND THREE HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS (\$1,375.00) of which ONE HUNDRED FIFTY AND NO/100 DOLLARS (\$150.00) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI.

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order And Notice of Potential Penalty, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history. However, in any such future

enforcement or permitting action, due consideration and weight shall be given to the Respondent's operational history after the date this Settlement Agreement is signed.

VII.

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement.

VIII.

This Settlement is being made in the interest of settling the State's claims and avoiding for both parties the expense and effort involved in litigation or adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LA.R.S. 30:2025(E) of the Act.

IX.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in West Baton Rouge Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of the Settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date of this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since the publication of the notice.

X.

Payment of the penalty described in Paragraph V is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time,

this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XI.

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement Agreement.

XII.

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party and to legally bind such party to its terms and conditions.

WITNESSES:

RESPONDENT

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of
_____, 20_____, in _____.

Notary Public

WITNESSES:

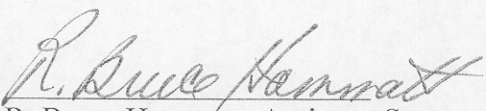
STATE OF LOUISIANA
Hall Bohlinger, Secretary
Department of Environmental Quality

BY: _____
R. Bruce Hammatt, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of
_____, 20_____, in Baton Rouge, Louisiana.

Notary Public

Approved:


R. Bruce Hammatt, Assistant Secretary

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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of LA.R.S. 30:2050.7.

RICHARD P. IEYOUB
ATTORNEY GENERAL

DATED: _____

BY: _____
ASSISTANT ATTORNEY GENERAL